

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>12/5/2013</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
CYNTHIA L. ALLEN, :
:
Plaintiff, :
:
v. :
:
COMMISSIONER OF SOCIAL :
SECURITY, :
:
Defendant. :
:
-----X

10 Civ. 0068 (LAP)(FM)

ORDER ADOPTING REPORT &
RECOMMENDATION

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff filed this pro se action to challenge the Social Security Commissioner's (the "Commissioner") decision to deny her request for disability benefits [dkt. no. 2]. On March 30, 2010, plaintiff's attorney, Lisa George ("Ms. George" or "counsel"), filed a notice of appearance on plaintiff's behalf [dkt. no. 5]. This case was subsequently remanded to the Commissioner [dkt. nos. 9 & 10], who found that plaintiff was disabled within the meaning of the Social Security Act [Affirm. Of Ms. George, dated Mar. 16, 2011]. On March 16, 2011, counsel filed a motion to recover attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(b); 42 U.S.C. § 406(a) ("Subsection (a)"); and 42 U.S.C. § 406(b) ("Subsection (b)") [dkt. no. 12].

On April 30, 2012, Magistrate Judge Frank Maas issued a Report and Recommendation (the "Report") [dkt. no. 18] that 1) counsel is not entitled to legal fees under the EAJA because she failed to file a timely application, 2) the Court lacks jurisdiction to award legal fees under Subsection (a), and 3) counsel is entitled to legal fees in the amount of \$2,141 under Subsection (b). Having reviewed counsel's objections and finding Judge Maas' decision to be correct and appropriate upon de novo review, see Fed. R. Civ. P. 72(b), the Report is hereby ADOPTED.

SO ORDERED.

Dated: December 5, 2013
New York, New York

A handwritten signature in black ink, reading "Loretta A. Preska". The signature is written in a cursive, flowing style.

LORETTA A. PRESKA
Chief U.S. District Judge